

**STATE OF MINNESOTA  
DEPARTMENT OF COMMERCE**

**BULLETIN 94-5  
Issued this 7th day of  
December, 1994**

**TO: ALL LIFE INSURANCE COMPANIES MARKETING LIFE INSURANCE  
PRODUCTS TO MINNESOTA RESIDENTS**

**RE: Marketing Practices**

In the light of recent regulatory developments around the country, the Department of Commerce believes it is important to remind all life insurers of the existing Minnesota laws and regulations governing the sale and/or marketing of life insurance products. It is very important that you review your current practices and procedures to ensure strict compliance with the applicable Minnesota statutes and rules. Increased regulatory activity should be anticipated in regard to marketing practices of life products.

**A. KEY LAWS AND REGULATIONS GOVERNING MARKETING OF  
INSURANCE PRODUCTS WITHIN MINNESOTA**

Based on the Department's experience, many of the marketing complaints/violations involve compliance failures relating to the following statutes and rules. It should be noted that the following list is not exhaustive and simply identifies some but not all of the statutes regulating the marketing of insurance in Minnesota.

1. Minnesota Statutes §72A.12, Subd. 2 - Misrepresentation of insurer or agent.
2. Minnesota Statutes §72A.20, Subd. 1 - Misrepresentation and false advertising of policy contracts.
3. Minnesota Statutes §72A.20, Subd. 2 - False information and advertising generally.
4. Minnesota Statutes §72A.20, Subd. 18 - Improper business practices.
5. Minnesota Statutes §61A.071 - Applications of person age 65 and above.
6. Minnesota Statutes §60K.14, Subd. 1((b)) - Required disclosures by agents.
7. Minnesota Statutes §60K.14, Subd. 4 - Suitability requirements.
8. Minnesota Statutes §45.025 - Advertisement of interest rates.

9. 4 MCAR §2700.3200 - Unfair and deceptive practices.
10. 4 MCAR §2790 - Insurance marketing standards.
11. 4 MCAR §2795 - Agent rates (especially 2795.0800 related to supervisory responsibility.)

## **B. MARKETING LIFE INSURANCE AND ANNUITIES**

### **1. General Advertising Rules**

- a. All advertisements for life insurance policies and annuity contracts used in Minnesota must:
  - Be sufficiently complete and clear to avoid any deception or confusion about the type of policy or contract which is being offered;
  - State clearly the type of coverage being offered;
  - Identify the insurer;
  - Identify the agency or the agent, when appropriate.
- b. When using interest rate/return/yield in any marketing materials and/or presentations, any prepayment expenses, surrender charges or withdrawal penalties associated with the product must be disclosed as well as the "effective net annual yield" or, as an alternative to these disclosures, the applicant must be given an approved "interest rate disclosure form."
- c. Every insurer, agent or agency shall establish and maintain a system of control over the content, form and method of distribution of advertisements.

### **2. Examples of Misrepresentations**

- Misrepresenting or disguising the type or nature of an insurance product. (For example, misrepresenting life insurance policies as retirement programs, annuities, college savings plans, or other programs/products.)
- Failing to properly disclose relevant information (for example, failing to adequately disclose the existence and potential impact of surrender penalties.)

- Misuse and/or unauthorized use of association endorsement when marketing products;
- Representing the tax benefits of a product(s) without providing, with equal prominence and in close conjunction thereto, an explanation of the tax rules applicable to the product .
- Placing undue emphasis in sales illustrations on "non-guaranteed projected" product benefits without providing an equally prominent disclosure(s) of the "guaranteed benefits".

### **3. Examples of Supervisory Failures**

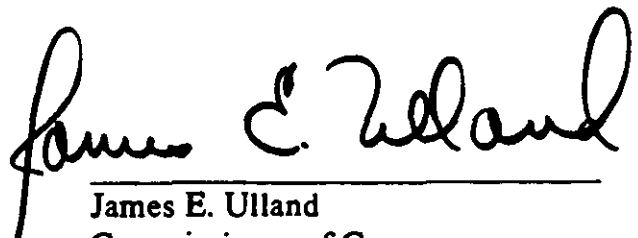
- Failure to develop and enforce specific agent conduct standards/rules.
- Lack of appropriate controls over the use of computer-generated sales materials;
- Failure to investigate agent behavior with respect to suspect or questionable transactions;

## **C. INSURER AND AGENT COMPLIANCE RECOMMENDATIONS**

Although not specifically required by statute or rule in most cases, good management practices suggest that companies should:

- Take steps to insure adequate training for managing or general agents, agencies and agents on compliance issues, especially in the areas of product suitability, product knowledge and proper presentation techniques;
- Prohibit the use of phrases such as "disappearing" or "vanishing" premium(s), in marketing materials and/or presentations.
- Develop and implement appropriate monitoring and compliance procedures;
- Prohibit the use of any marketing materials which have not been pre-approved by the company/insurer.
- Establish strict controls over agents' use of marketing materials, including computer software and illustrations;

- Review complaint files for purposes of identifying patterns or practices that appear to evidence improper conduct;
- Require agents to learn the relevant laws and regulations through self-study, company or industry supported/sponsored training courses and/approved continuing education courses.
- Require agents to fully explain the features, costs and benefits associated with their products.
- Develop and implement reliable method(s) for auditing/surveying a reasonable number of customer applications in order to ensure that clients "fully" understand the nature, purpose, and financial obligations relating to the product they have purchased.
- Train underwriters and customer service representatives to recognize factors which could indicate abusive and/or improper sales practices by agents. Although none of the following factors, in of themselves, prove agent misconduct, they should trigger increased attention by insurers,
  1. Large even dollar premium transactions involving senior citizens,
  2. Observable differences in the applicants signature on various forms,
  3. Multiple product sales to senior citizens,
  4. Repeated calls and/or inquiries requesting an explanation or further information about the policy or products sold by a specific agent.

  
James E. Ulland  
Commissioner of Commerce